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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/700,583      | 11/05/2003  | Clayton D. Shumake   |                     | 7591             |

7590

08/23/2005

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| EXAMINER |
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QIN, JIANCHUN

|          |              |
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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2837

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/700,583 | <b>Applicant(s)</b><br>SHUMAKE, CLAYTON D. |  |
|                              | <b>Examiner</b><br>Jianchun Qin      | <b>Art Unit</b><br>2837                    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/05/03</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objection***

1. Claims 3-7 recite the limitation "the telescoping tube holder". There is insufficient antecedent basis for this limitation in the claims.

Claims 5-7 recite the limitation "the swivel tube clamp". There is insufficient antecedent basis for this limitation in the claims.

Appropriate correction is required.

### ***Drawings***

2. The drawings are objected to because there is no reference numbers for the elements of the device shown in figures 1 and 3-5. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shulman (U.S. Pub. No. 20020007716) in view of Noguchi et al. (JP 2003280642, machine English translation).

With respect to claim 1:

Shulman discloses an easy horn holder (Fig. 1); the Easy Horn Holder is desired to be adjustable vertically (sections 0021), inward and outwardly (section 0045), and rotated clockwise and counter clockwise (sections 0046-0049).

Shulman does not disclose a shoulder harness that slides over the shoulder, mounted to the easy horn holder.

Noguchi et al. teach a shoulder harness that slides over the shoulder, mounted to a musical instrument (Drawings. 1 and 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shulman's easy horn holder, as taught by Noguchi et al., by substituting the slide unit (Noguchi et al., drawing 2, #19) for the breastplate assembly (Shulman, Fig. 2, #16) and the shoulder carrying hooks (Noguchi et al., drawing 2, #20) for the neck strap (Shulman, Fig. 1, #12) in order to ensure favorable wearing of tool on shoulder of music player with reduced feeling of oppression to play's chest (Noguchi et al., see ADVANTAGE).

With respect to claim 2:

Shulman teaches the easy horn holder that includes the subject matter discussed above except that: adjustable angle assembly that mounts to the harness to provide the proper height.

Noguchi et al. teach an adjustable positioning assembly that mounts to the harness to provide the proper height (drawing 2, #25 and #26).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shulman's easy horn holder, as taught by Noguchi et al., by substituting the slide unit (Noguchi et al., drawing 2, #19) for the breastplate assembly (Shulman, Fig. 2, #16) and the shoulder carrying hooks (Noguchi et al., drawing 2, #20) for the neck strap (Shulman, Fig. 1, #12) in order to ensure favorable wearing of tool on shoulder of music player with reduced feeling of oppression to play's chest (Noguchi et al., see ADVANTAGE).

With respect to claim 3:

The teaching of Shulman further includes: said breastplate assembly connected to a telescoping tube holder that swivels left and right for position (sections 0045). Sleeve tightens with wing nut holder to position desired once it's achieved (section 0045; Fig. 2, the cap screw at the front end of the upper arm).

Shulman does not mention an adjustable angle assembly that is connected to the telescoping tube holder.

Noguchi et al. teach the adjustable positioning assembly as discussed above.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shulman's easy horn holder, as taught by Noguchi et al., by substituting the adjustable positioning assembly (Noguchi et al., drawing 2, #25 and #26) for the breastplate assembly (Shulman, Fig. 2, #16) in order to ensure favorable

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wearing of tool on shoulder of music player with reduced feeling of oppression to play's chest (Noguchi et al., see ADVANTAGE).

With respect to claim 4:

The teaching of Shulman further includes: telescoping/swivel tube mounts to the telescoping tube holder for inward and outward and swivel positioning of musical instrument (section 0045; Fig. 2, #18 and #34).

#### ***Allowable Subject Matter***

5. Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and also amended to overcome the objection(s) set forth above.

#### ***Reasons for Allowance***

6. The following is an examiner's statement of reasons for allowance:

The primary reason for the allowance of claims 5-7 is the inclusion of the limitation that swivel tube holds the swivel tube clamp that can rotate clockwise and counter clockwise and tighten once desired position is achieved.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jianchun Qin whose telephone number is (571) 272-5981. The examiner can normally be reached on 8am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

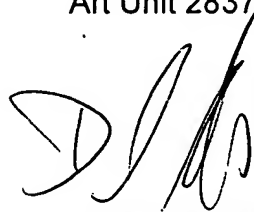
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JQ

August 18, 2005



Jianchun Qin  
Examiner  
Art Unit 2837



DAVID MARTIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

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